

REMARKS

By the present amendment, Applicant has amended Claims 3, 4, 5 and 7. Claims 1, 2 and 6 have been cancelled. Claim 8 has been added. Claims 3-5, 7 and 8 remain pending in the present application, with Claim 8 as the only independent claim.

In the recent Office Action the Examiner rejected Claim 3 under 35 U.S.C. § 112, second paragraph, as being indefinite for containing the trademark/trade name PLEXIGLAS. PLEXIGLAS has been replaced with the generic term “acrylic sheet”, thus obviating the 35 U.S.C. § 112 rejection.

The Examiner rejected Claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Ernest et al. (US 5,331,757). Claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Ernest et al. (US 5,331,757) for the same reasons as the rejection of claim 1, and further in view of Wang (US 6,553,695). Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Ernest et al. (US 5,331,757) for the same reasons as the rejection of claim 1, and further in view of Davis (US 298,354). And, Claims 3, 4, 6 and 7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ernest et al. (US 5,331,757) in view of Wang (US 6,553,695) and Davis (US 298,354).

Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

MPEP § 2143 states: “To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).”

With this a background, the Examiner's prior art rejections of the claims are discussed in light of the claims as now amended. The claims have been rejected as being non-obvious over the patent to Ernest et al. (US 5,331,757), either taken alone or in combination with Wang (US 6,553,695) and/or Davis (US 298,354).

Ernest et al. teaches a sign holder assembly 10 including a retaining bracket 16 in the form of an elongated channel with a base 20 and a pair of upstanding, inwardly converging legs 22, 24, and a pair of clear, substantially identical and relatively flexible panels 12, 14. The assembly further includes an insert 18 capable of accepting the panels and mountable within the bracket. The converging legs 22, 24 of the retaining bracket are formed so as to bias the panels toward one another. The insert 18 is provided with a series of formations for engaging the individual panels 12, 14 of a pair, over a range of different thickness of different panels of a panel pair. In comparing the teachings of Ernest et al. with Applicant's newly presented claim 8, it is evident that Ernest et al. does not show 1) a

base being in the form of an elongated block with a planar top surface, 2) a groove in the top surface having a pair of parallel, vertical side walls, 3) an elongated, unitary, one-piece transparent plate, 4) a bottom edge of the plate snugly and permanently secured within the groove by adhesive, 5) a display tag permanently secured to a side surface of the base, and 5) a plurality of calendar sheets disposed within the slots of the one-piece, transparent plate.

Recognizing that Earnest et al. is deficient in a number of aspects of Applicant's claimed invention, the Examiner turns to the teachings Davis (US 298,354) and Wang (US 6,553,695). Davis shows a device for holding photographs, advertising cards and similar articles comprised of a wooden base B,C with an upwardly-projecting, slotted portion F,E on the top surface of the base. Wang shows a license plate frame 10 having tags 44 applied to the plate frame 10.

The Examiner believes that it would have been obvious to one of ordinary skill in the art to make the base of the holder of Earnest et al. from wood in view of the teachings of Davis, and to mount identifying tags on a side of the base of Earnest et al. as taught by Wang, and further, that while Earnest et al. does not teach the use of an adhesive to permanently secure plates 12, 14 in base 16, one of ordinary skill in the art would have found it obvious to provide an adhesive to do so because "this is considered to be a well known alternative"(Office Action mailed March 17, 2005, p. 3, lines 5, 6). Applicant does not agree. Obviousness is tested by "what the combined teachings of the references would have suggested to those of ordinary skill in the art." In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). But it "cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or

suggestion supporting the combination." ACS Hosp. Sys., Inc. v. Montefiore Hosp., 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). The device of Earnest et al. is clearly a knockdown structure that may be readily assembled and disassembled. There is nothing in the cited references to teach or suggest the desirability, and thus the obviousness, of the removable and interchangeable plates 12, 14 and insert 18 of Earnest et al. being permanently secured within base 16 through the use of an adhesive. Nor, does the cited prior art teach or suggest; 1) a base being in the form of an elongated block with a planar top surface, 2) a groove in the top surface, extending beneath the top surface and having a pair of parallel, vertical side walls, 3) an elongated, unitary, one-piece transparent plate, and 4) the combination of a plurality of calendar sheets disposed within the slots of the one-piece, transparent plate, as is now recited in new independent claim 8. It is only by impermissible hindsight and reliance on Applicant's own disclosure that the Examiner would have been led to reconstruct the sign holder of Earnest et al. so as to derive Applicant's claimed calendar holder and calendar sheet combination from the applied teachings. It is therefore Applicant's conclusion that the combined teachings of Earnest et al., Davis and Wang fail to establish a *prima facie* case of obviousness.

The remaining references made of record in the present application, but not applied by the Examiner in making her rejection, have also been carefully reviewed, however, Applicant finds nothing therein which would overcome or supply that which is lacking in the basic combination of the other applied prior art noted above.

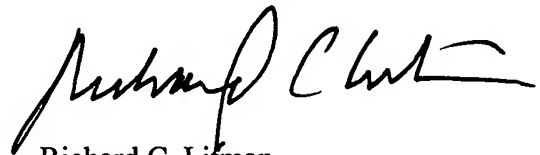
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The claims in this application have been revised to more particularly define applicant's unique construction in view of the prior art of record. Reconsideration of the claims in light of the amendments and for the following reasons is respectfully requested.

For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard C. Litman", with a stylized flourish at the end.

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